

To: Uniformity Committee of the Multistate Tax Commission

Thank you for your work on issues related to the implementation of the recent Supreme Court decision regarding remote collection authority. Part of the work of the committee focuses on issues related to marketplace facilitators. In the list of issues developed by the committee, item #2 addresses specific problems associated with seller registration, the preparation and filing of returns, and the remittance of tax funds.

2. Are registration and return filing requirements in conflict or duplicative?  
If the marketplace facilitator is required to register, collect and remit the sales/use tax on facilitated sales, then is there a need for the marketplace seller to register or report those same sales?

Recognizing that sellers may, and do, sell through many platforms, coordination on who is responsible for reporting and remitting tax on all categories of sales is critical. For example, there are marketplace sellers that 1) use multiple facilitators who each may be required to report and remit tax; 2) make in-store sales on which they traditionally report and remit the tax directly; and 3) make on-line sales outside of any facilitator on which they self-report or have hired a third party, such as a Certified Service Provider, to file returns and remit payments.

It is important that facilitator laws recognize these alternative ways of transactions occurring in a single business and clearly outline filing and remittance responsibilities prior to any filings being submitted. It is much more difficult to “undue” erroneous or duplicative filings and refund tax payments than it is to clarify these obligations upfront.

We will be working on suggested legislative language to address this issue and will engage facilitators to see if we can develop possible solutions that work for everyone.

Beyond the issues concerning facilitator laws, there are many other issues related to implementing remote collection authority that we hope the committee will consider addressing. As remote sellers work to comply with new sales and use tax responsibilities across the states, it would be extremely helpful if states coordinate their efforts. The attached list outlines issues that states should consider when looking for ways to reduce the burden faced by remote sellers in collecting sales and use taxes. We ask the committee to review these issues and encourage states to take coordinated action when appropriate.

Thank you for your work and for considering this request. We look forward to working together and are available to answer any questions you may have or expand upon any of this content.

TaxCloud, Intuit

# **Implementation Issues Related to Remote Collection Authority**

## **Overall Information on Implementation**

### All States

- Participate with other states on creating a single website that outlines how each state is implementing remote collection authority.

## **Thresholds for Collection Obligation for Small Retailers**

### All States

- Provide clear guidance to retailers on when their obligation begins.
- Adopt uniform policies and definitions for application of thresholds.
  - Include or exclude exempt sales?
  - When does the collection obligation begin if the threshold is met during a year?
  - Use calendar year or fiscal year or trailing 12 months?

## **Registration**

### Non SST States

- A simpler registration form that excludes unnecessary information.
- Waiving registration fees.
- Separately identifying remote sellers in the registration process so that they can be subject to alternative procedures regarding fees, notices, audits and other administrative matters.
- Participate in the Streamlined Sales Tax Governing Board's registration system or a similar system that allows remote sellers to register in multiple states at the same time.

## **Determination of Taxability**

### Non SST States

- Provide taxability tables that specify if commonly sold items are exempt from taxation. The Streamlined Governing Board has developed a template for states to fill out that does not require conformity to specific product definitions.
- Review the Streamlined Taxability Matrix and provide as much information as possible on the tax treatment of the defined terms. States may also consider adjusting their product exemptions to conform to the defined terms.
- Provide explanations of how entity and use exemptions apply.

- Review the taxability rules of third party providers for accuracy. Consider certifying these rules and providing liability relief to retailers and providers that use the certified determinations.

## **Tax Rates**

### Non SST States

- Limit the dates on which state or local rates can change. Streamlined limits local rate changes to the first day of each calendar quarter.
- Publish tables of the all state and local rates within the state. Consider providing liability relief to retailers and providers that use these rates.
- Provide tables that assign the appropriate tax rate to each taxing jurisdiction. Consider using the format developed by the FTA Tigers group and adopted by Streamlined.

## **Local Jurisdiction Boundary Tables**

### Non SST States

- Provide tables that assign individual addresses to the correct taxing jurisdictions. Consider using the format developed by the FTA Tigers group and adopted by Streamlined. The National Association of Certified Service Providers will provide initial tables free of charge to states wishing to provide this information. States may also consider providing liability relief for retailers and providers using this information.

## **Return Filings**

### Non SST States

- Adopt simpler sales tax returns for remote sellers that exclude unnecessary fields and do not address taxes that aren't applicable to remote sellers.
- Adopt filing protocols developed by the FTA TIGERS group and adopted by Streamlined.
- Accept the Simplified Electronic Return used in the Streamlined States.

## **Remittances**

### Non SST States

- Adopt payment protocols developed by the FTA TIGERS group and adopted by Streamlined.
- Clearly outline payment requirements and deadlines and make them available in a online database that covers all sales tax states.
- Work with CSPs on payment options and test and implement bulk payments.

## **Maintaining Records**

### **Non SST States**

- Provide clear guidelines outlining the data that remote retailers should maintain and how long that data should be retained.

## **Audit Issues**

### **Non SST States**

- Develop audit standards and procedures that recognize the unique situation of remote sellers.
- When auditing a seller that utilizes a CSP, direct audit inquiries to the CSP.
- Consider participating with the Streamlined States when conducting audits of CSPs.

## **Assessments and Notices**

### **All States**

- Develop procedures to prevent sending erroneous assessment notices to remote sellers.
- Develop expedited procedures for resolving assessments of tax, penalties and interest for remote sellers. Coordinate this process with third parties that represent remote sellers.
- Limit the notices that are sent to remote sellers.
- Provide electronic notices.
- Coordinate with third party providers that represent remote sellers on where notices are to be sent.
- Accept the Uniform Power of Attorney form that has been adopted by Streamlined.

## **Providing Software to Remote Retailers**

### **Non SST States**

- Consider addressing most of the issues above by certifying comprehensive software solutions and making them available to remote sellers.

## **Security Protocols**

### **All States**

- Review security and confidentiality measures to ensure protection of seller and consumer information.